



# Town Council Agenda Report

**SUBJECT:** Quasi Judicial Hearing: Rezoning

## **CONTACT PERSON/NUMBER**

Name: Mark Kutney, AICP  
Phone: (954) 797-1101

## **TITLE OF AGENDA ITEM:**

ZB 1-2-00 "Value Dinning" Manny Fagundes, V.P., Real Estate Development petitioner / Hollywood Lincoln Mercury, (Value Dining Corporation), owner - 4184 thru 4190/Generally located on the east side of University Drive approximately 80 feet south of SW 35th Street.

## **REPORT IN BRIEF:**

This request includes two parts: 1) The petitioner is requesting to reinstate the original B-2 zoning designation on the north portion of property (PEBB - Davie Plat) and 2) to amend the existing declaration of restrictions in effect for the entire subject site to allow for a wide range of permitted uses within the B-2 District zoning proposed for the north portion of the site and the existing B-3 District zoning of the south portion of the subject site, while restricting certain intense uses permitted within the B-2 and the B-3 zoning districts (see attached list of uses to be restricted).

The existing restrictions were established at the time of the previous rezoning only because a car dealership was being proposed at that time. Therefore, staff believes the proposed amendments to the existing declaration of restrictions on both the north and south portions of the subject site are necessary to allow for reasonable use of the subject site.

The proposed B-2 zoning designation for the north portion of land is consistent with the underlying Regional Activity Center (RAC) land use designation and the existing commercial zoning districts to the north and south. The existing single-family dwelling unit to the east is oriented away from the site closer to SW 76th Avenue where it gains its access. The single-family homes to the west are located across University Drive and are buffered by an approximate 8 foot high landscape berm. Therefore, staff believes the proposed rezoning of the north portion of the subject site will have no negative impact on existing adjacent and planned uses.

Both the north and south portions of the subject site have been platted and have satisfied the test of traffic concurrency at the time of plat approval through Broward County.

Thus, staff believes the proposed rezoning of the north portion of the subject site, and the proposed amendments to the existing declaration of restrictions for both portions are consistent with the Town's Comprehensive Plan, will not be harmful to the general welfare of the public, and can be considered to be in harmony with the general intent and purpose of the code.

## **PREVIOUS ACTIONS:**

- The subject property was designated Regional Activity Center as part of a 2,241 acre land use plan amendment in 1998.

- In June of 1995, the Town Council approved a rezoning of the subject property from B-2, Community Business Center to the B-3, Planned Business Center (ZB 2-1-95).
- A variance was approved in May of 1995, for reduction in the minimum site area from 5 acres to 4.5 acres (V 2-3-95), for a car dealership.
- On February 16, 2000, the Town Council tabled this item to its March 1, 2000 meeting (motion carried 5-0)
- On March 1, 2000, the Town Council tabled this item to its March 15, 2000 meeting (motion carried 5-0).

**CONCURRENCES:**

- On February 9, 2000, the Planning and Zoning Board tabled this item to its February 23, 2000 meeting (motion carried 5-0).
- On February 23, 2000, the Planning and Zoning Board tabled this item to its March 8, 2000 meeting (motion carried 5-0).
- The Planning and Zoning Board recommended approval subject to the voluntary deed restrictions noted in the planning report as amended by the petitioner to include hotels, motels, private clubs, and adult facilities (motion carried 5-0, March 8, 2000).

**FISCAL IMPACT:** None.

**RECOMMENDATION(S):** Motion to approve subject to the voluntary declaration of restrictions.

**Attachment(s):** Planning report, land use map, subject site map, and aerial.

**Application #:** ZB 1-2-00

**Revisions:**

**Exhibit "A":**

**Original Report Date:** 2/28/00

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**TOWN OF DAVIE  
Development Services Department  
Planning & Zoning Division Staff  
Report and Recommendation**

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**APPLICANT INFORMATION**

**Owner:**

**Agent:**

<b>Name:</b>	Hollywood Lincoln Mercury	<b>Name:</b>	Manny Fagundes, V.P. of Real Estate for Value Dining
<b>Address:</b>	1700 Sheridan Street	<b>Address:</b>	4210 NE 20th Avenue
<b>City:</b>	Hollywood, FL 33020	<b>City:</b>	Ft. Lauderdale, FL 33308
<b>Phone:</b>	(954) 920-6010	<b>Phone:</b>	(954) 565-4576

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**BACKGROUND INFORMATION**

**Application Request:** To rezone the north 2.70 acres (PEBB - DAVIE PLAT) from B-3, Planned Business Center District to the B-2, Community Business District and to amend the existing declaration of restrictions in effect for the entire subject site.

**Address/Location:** 4184 thru 4190 University Drive/Generally located on the east side of University Drive approximately 80 feet south of SW 35th Street.

**Land Use Plan Designation:** Regional Activity Center

**Zoning:** B-3, Planned Business Center District

**Existing Use:** A free standing preschool/day care and a free standing retail building existing on the south 1.79 acres of the site.

**Proposed Zoning:** B-2, Community Business District and B-3, Planned Business Center District, with amended deed restrictions.

**Proposed Use:** A 2-story office building (8,100 square feet) and a 1-story restaurant (8,674 square feet) called "Value Dining" on the north 2.70 acres, and a new 3,565 square foot building on the south 1.79 acres.

**Parcel Size:** North portion of site (PEBB - Davie Plat) - 2.70 acres/117,612 square feet  
South portion of site (Small Fry Plat) - 1.79 acres/77,972 square feet  
Total site area: 4.499 acres/195,976 square feet

**Surrounding Land Use:**

**Land Use Designation:**

**North:** Existing commercial development

Regional Activity Center

	(Berkharts - lawn equipment sales).	
<b>South:</b>	Existing commercial development (office building).	Regional Activity Center
<b>East:</b>	A single-family residential dwelling.	Regional Activity Center
<b>West:</b>	Single-family residential dwellings (Rolling Hills), across University Drive.	Special Classification - Residential 3.5 du/ac

### **Surrounding Zoning:**

**North:** B-2, Community Business District.  
**South:** B-3, Planned Business Center District, and A-1, Agricultural District.  
**East:** A-1, Agricultural District.  
**West:** R-5, Low Medium Density Dwelling District, across University Drive.

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## **ZONING HISTORY**

**Related Zoning History:** The subject property was designated Regional Activity Center as part of a 2,241 acre land use plan amendment in 1998.

### **Previous Requests on same property:**

- June, 1995: The Town Council approved rezoning ZB 2-1-95 (B-2 to B-3). This also included a voluntary declaration of restrictions, restricting use of the property to a car dealership only.
- May, 1995: The Town approved variance V 2-3-95, to reduce the minimum site area from 5 acres to 4.5 acres for a car dealership.

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## **DEVELOPMENT PLAN DETAILS**

The petitioner is proposing to construct a restaurant and an office building on the north portion of the subject site. This parcel is platted separately from the existing development to the south and provides for an 80 foot wide access opening centered along the University Drive frontage with non-vehicular access lines placed on both sides for the length of the plat. The applicant states, this effects the potential placement of buildings as the larger setback requirements of the B-3 District would place the building closer to the platted access opening than under the B-2 development standards creating an awkward traffic circulation pattern.

This petition also includes a request to amend the existing declaration of restrictions, which was established under the previous rezoning, and limits the use of the property to a car dealership only. The amendment to the deed restriction includes allowing for most uses permitted within the B-2 zoning district, should the rezoning be approved. A conceptual master plan has been provided and is attached hereto.

### **Proposed Buildings on north 2.70 acres (PEBB - Davie Plat):**

1. One, 1-story restaurant building (8,674 square feet) to be located at the west end of the north 2.7 acres, abutting University Drive.
2. One, 2-story office building (8,100 square feet - 4,050 square feet per floor) to be located on the east end of the north 2.7 acres.

A new building is proposed on the south portion of the subject site to accommodate a

amendment to the deed restriction includes allowing for most uses permitted within the B-3 zoning district. A conceptual master plan has been provided and is attached hereto.

Proposed Building on South 1.79 acres (Small Fry Plat):

1. One commercial building (office - 3,500 square feet) to be located behind the 2 existing buildings on the south 1.8 acres.

Existing Building Information on the south 1.79 acres (Small Fry Plat):

1. Commercial retail building located at the west end of the parcel (6,398 square feet).
  2. Day care building located at the center of the parcel (6,039 square feet)
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## **Applicable Codes and Ordinances**

Land Development Code Section, 12-307, Review for Rezonings.

Land Development Code Section, 12-32, Table of permitted uses.

Land Development Code Section, 12-34(AA), Unified Control of Development, conceptual master plans, and covenants and restrictions.

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## **Comprehensive Plan Considerations**

**Planning Area:** This property falls within Planning Area 8. This planning area is the heart of Davie, and is the most diverse, characterized by older, small-scale commercial development, older single-family residential neighborhoods, and newer, large-scale multi-family residential developments that serve the rapidly growing South Florida Education Center (SFEC). The planning area issues include roadway congestion in and around the SFEC and the University Drive/I-595 redevelopment of Davie's original business district, and neighborhood redevelopment.

**Broward County Land Use Plan:** The subject site falls within Flexibility Zone 99.

**Concurrency Considerations:**

- **North Property (PEBB -Davie Plat):** This property is currently platted and is restricted to 20,000 square feet of commercial use. Therefore, the proposed restaurant and office building (16,774 total square feet) are consistent with the plat note restriction and has met the test of concurrency for roadways.
- **South Property (Small Fry Plat):** This property received plat approval in the mid-1980s which did not place any restrictions on the amount of building square footage permitted on the site. The proposed development will not increase traffic above that which is anticipated under the existing land use and zoning designation.

**Applicable Goals, Objectives & Policies:**

Future Land Use Policy 7-3: Zoning regulations shall provide for varying intensities of commercial development, and direct application of appropriate districts where compatible with adjacent and surrounding residential uses.

Future Land Use Policy 10-1: The Regional Activity Center land use designation shall promote and encourage large-scale development and redevelopment as well as small parcel infill development and redevelopment that facilitates a coordinated and balanced mix of land uses, providing for: educational facilities; a wide selection of housing types for all income ranges; shopping opportunities to meet the basic and expanded needs of students, residents, employees and visitors; research, training and other educational support uses; recreation; and employment opportunities, including the use of mixed residential/nonresidential land uses.

Future Land Use Policy 10-7: Rezoning and variance requests within the RAC shall be evaluated against the comprehensive plan policies relating to the RAC designation, and shall further the intent of the RAC.

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### **Staff Analysis**

This request includes two parts: 1) The petitioner is requesting to reinstate the original B-2 zoning designation on the north portion of property (PEBB - Davie Plat) and 2) to amend the existing declaration of restrictions in effect for the entire subject site to allow for a wide range of permitted uses within the B-2 District zoning proposed for the north portion of the site and the existing B-3 District zoning of the south portion of the subject site, while restricting certain intense uses permitted within the B-2 and the B-3 zoning districts (see attached list of uses to be restricted).

The existing restrictions were established at the time of the previous rezoning only because a car dealership was being proposed at that time. Therefore, staff believes the proposed amendments to the existing declaration of restrictions on both the north and south portions of the subject site are necessary to allow for reasonable use of the subject site.

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Thus, staff believes the proposed rezoning of the north portion of the subject site, and the proposed amendments to the existing declaration of restrictions for both portions are consistent with the Town's Comprehensive Plan, will not be harmful to the general welfare of the public, and can be considered to be in harmony with the general intent and purpose of the code.

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### **Findings of Fact**

#### **Section 12-307(A)(1)**

- (a) The proposed change is not contrary to the adopted comprehensive plan, as amended, or any element or portion thereof:

- (b) The proposed change will not create an isolated zoning district unrelated and incompatible with adjacent and nearby districts;
  - (c) Existing zoning district boundaries are logically drawn in relation to existing conditions on the property proposed for change;
  - (d) The proposed change will not adversely affect living conditions in the neighborhood;
  - (e) The proposed change will not create or excessively increase automobile and vehicular traffic congestion above that which would be anticipated with permitted intensities or densities of the underlying land use plan designation, or otherwise affect public safety;
  - (f) The proposed change will not adversely affect other property values;
  - (g) The proposed change will not be a deterrent to the improvement or development of other property in accord with existing regulations;
  - (h) The proposed change does not constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public;
  - (i) There are substantial reasons why the property cannot be used in accord with existing zoning designations and associated restrictive covenants.
  - (j) The proposed zoning designation is the most appropriate designation to enhance the Town's tax base given the site location relative to the pattern of land use designations established on the future land use plan map, appropriate land use planning practice, and comprehensive plan policies directing land use location.
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### **Staff Recommendation**

**Recommendation:** Based upon the above and the overall finding of facts in the positive, staff recommends **approval** of application ZB 1-2-00, subject to the voluntary declaration of restrictions as noted in the planning report.

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### **Planning and Zoning Board Recommendation**

The Planning and Zoning Board recommended approval subject to the voluntary deed restrictions noted in the planning report as amended by the petitioner to include hotels, motels, private clubs, and adult facilities (motion carried 5-0, March 8, 2000).

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### **Exhibits**

1. Conceptual Master Plan (north portion of site)
2. Conceptual Master Plan (south portion of site)
3. List of uses to be restricted for both the B-2 and B-3 zoning districts.
4. Land Use Map
5. Subject Site Map
6. Aerial

Prepared by: \_\_\_\_\_  
Reviewed by: \_\_\_\_\_

(B) COMMERCIAL, OFFICE AND BUSINESS DISTRICTS  
GENERAL USE

## DISTRICTS

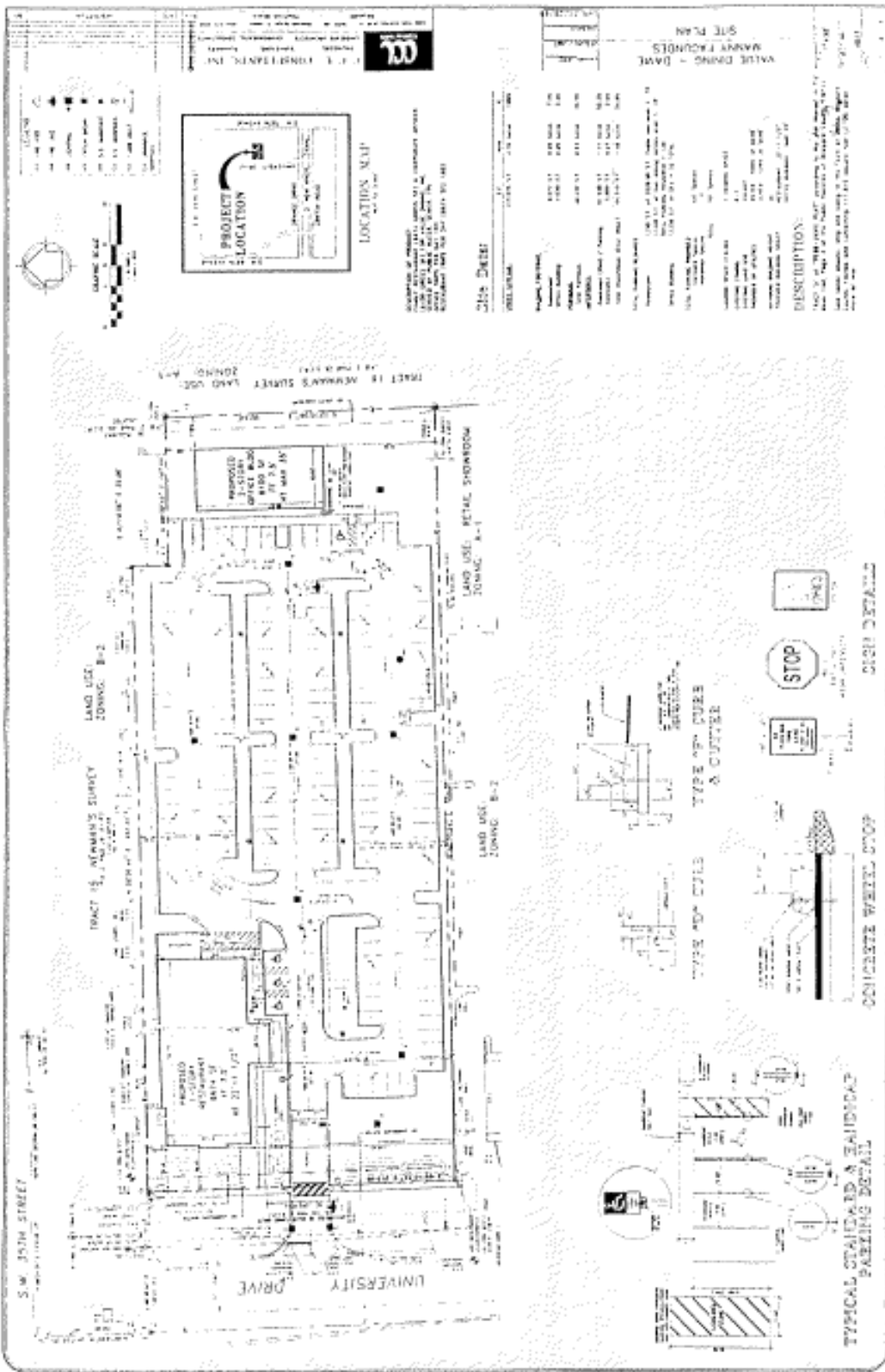
	SC & B-1	WT & B-2	UC & B-3	O	FB	CC	CI	RO
<del>Adult Facilities</del>	N	N	*	N	N	N	N	N
Agriculture	*	*	*	*	N	*	N	*
Agriculture, Commercial	*	*	*	*	*	*	*	*
Amusement Parks	N	N	N	N	N	N	N	N
Animal Hospital	P	P	P	N	N	N	P	N
Animal Kennel	N	N	N	N	N	N	P	N
Antique, Crafts Shops	P	P	P	N	N	N	N	N
Athletic/Health Clubs, Gyms	N	P	P	N	P	*	P	N
Art Gallery	P	P	P	P	P	N	N	N
Auction House	N	*	*	N	N	N	*	N
Banks, Financial	P	P	P	P	P	P	N	N
Bakery, Delicatessen	P	P	P	N	P	*	P	N
Barber, Beauty Shops	P	P	P	N	P	*	P	N
<del>Bars, Lounges</del>	N	*	*	N	*	*	*	N
Bingo Establishments	N	1	1	N	N	N	*	N
Boat Yards	N	N	N	N	N	N	P	N
Bookstores, Newsstand	P	P	P	N	P	**	P	N
Botanical Gardens	N	N	N	N	P	N	P	N
Bottled Fuel	N	N	N	N	N	N	P	N
Bowling, Skating	N	P	P	N	N	N	P	N
Cabinet/Carpentry Shops	N	N	N	N	N	N	*	N
Car Wash	N	P	P	N	N	N	P	N
Catering (Food)	N	P	P	N	N	P	P	N
Communication Apparatus	*	*	*	*	*	*	*	*
Contractor, office only	P	P	P	P	N	P	P	P
Convenience Stores	P	P	P	N	*	N	P	N
<del>Dance Halls, Clubs</del>	N	P	P	N	P	N	P	N
Distribution Facilities	N	N	N	N	N	N	P	N
Dry Cleaning	*	*	*	N	N	**	P	N
Florist, Plant Shop	P	P	P	N	P	**	P	N
Game Room, Arcade	N	P	P	N	N	N	P	N
Gardeners, Landscape Contractors	N	N	N	N	N	N	P	N
Gift Shops	P	P	P	N	N	**	P	N
Golf Courses	N	P	P	N	P	N	N	N
Home Occupation	N	N	N	N	N	N	N	P
<del>Hotels, Motels</del>	N	N	*	N	P	*	N	N
Laboratories	N	N	N	P	P	P	P	N
Light Fabrication	N	N	N	P	N	P	P	N
Machine Shop	N	N	N	N	N	N	P	N



(B) COMMERCIAL, OFFICE AND BUSINESS DISTRICTS  
GENERAL USE

## DISTRICTS

	SC & B-1	WT & B-2	UC & B-3	O	FB	CC	CI	RO
Medical Clinic, Doctor's Office	N	P	P	N	N	P	N	N
Mini Warehouse/Self Storage	N	N	N	N	N	*	*	N
Mobile Home Sales	N	*	*	N	N	N	P	N
Mortuary	N	P	P	N	N	N	P	N
Motion Picture Studio	N	N	N	N	N	P	P	N
Motor Fuel Pumps	N	*	*	N	*	N	*	N
Movie Theater, Performing Arts	N	P	P	N	P	N	N	N
Night Clubs	N	*	*	N	*	**	*	N
Nursery, Child Care Facility	*	*	*	N	*	*	N	N
Office	P	P	P	P	P	P	P	P
Office Equipment Sales	N	P	P	N	P	*	P	N
Parking Lot, Rental	N	P	P	N	*	N	N	N
Pawnshop	N	P	P	N	N	N	P	N
Personal Services	P	P	P	N	P	**	P	N
Pharmacy	N	P	P	N	P	*	P	N
Photographic Studio	P	P	P	N	P	P	P	N
Plant Nursery	P	P	P	P	P	N	P	P
Pool Rooms	N	P	P	N	N	N	P	N
Printer	N	P	P	N	P	P	P	N
Private Club	N	N	P	N	P	N	N	N
Radio or TV Station	N	N	N	N	N	P	P	N
Real Estate Office	P	P	P	P	*	P	P	P
Repair Shop, except vehicle or boat repair	N	P	P	N	N	N	P	N
Research Facilities	N	N	N	P	P	P	P	N
Residential Uses	*	N	*	N	*	*	*	*
Restaurants, Fast Food	N	P	P	N	P	N	P	N
Restaurant, Other	*	P	P	N	P	*	*	N
Retail Sales Other	P	P	P	N	P	**	P	N
Sales Office	P	P	P	P	P	P	P	P
Schools—Special, Private	N	*	*	*	*	N	N	N
Schools, Trade, Vocational and Other	N	*	*	*	*	N	*	N
Service Stations	N	N	*	N	N	N	*	N
Sheet Metal Shop	N	N	N	N	N	N	*	N
Special Residential Facilities	*	*	*	N	N	N	N	N
Sports Arena	N	N	N	N	N	N	N	N
Studios (Art, Music)	P	P	P	N	N	P	P	P
Truck, Auto, Trailer, Utility Rental	N	N	P	N	N	P	P	N
Vehicle Customizing	N	N	N	N	N	N	P	N
Vehicle, Boat, Truck, Repair Major	N	N	N	N	N	N	*	N
Vehicle Repair, Minor	N	*	*	N	N	N	P	N
Vehicle Towing	N	N	N	N	N	N	*	N
Vehicle Boat, Truck Sales	N	N	*	N	N	*	P	N
Warehouse, Storage	N	N	*	N	*	*	*	N







## CCL CONSULTANTS, INC.

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Landscape Architects  
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2200 PARK CENTRAL BLVD., N, SUITE 100, POMPANO BEACH, FL 33064, (954) 974-2200 • FAX (954) 973-2686

January 13, 2000

Mr. Jason Eppy, Planner 1  
Town of Davie  
Planning & Zoning Department  
6591 Orange Drive  
Davie, FL 33314

Re: Change of Zoning  
Peeb-Davie Plat and Small Fry Plat  
CCL Project No. 4017

Dear Mr. Eppy:

We are requesting a change in the zoning of the two parcels, the Peeb-Davie Plat and the Small Fry Plat shown on the attached surveys. We believe the re-zoning to be in the best interest of our client, Value Dining, Inc., and the Town of Davie. With this in mind, we have provided responses to the criteria for evaluation of re-zoning requests.

1. The proposed change is not contrary to the adopted comprehensive plan and is in keeping with adjacent zoning.

The Adjacent zoning is B-2 and B-1 along University Drive and A-1 in the rear. The comprehensive plan shows this area as commercial, and the requested zoning category corresponds to the uses envisioned in the City's Future Land Use Plan.

2. The proposed change would not create an isolated zoning district unrelated and incompatible with adjacent and nearby districts.

Changing the zoning from B-3 to B-2 would be more in keeping with adjacent zoning of B-2 and B-1 in this section of University Drive. In fact, the new zoning classification would be less intensive in terms of allowed uses, than the existing B-3. This property was in previously zoned B-2, before the 1995 action.

3. Existing zoning district boundaries are illogically drawn in relation to existing conditions in the property proposed for change.

N/A; the property is vacant on the north half and developed in conformance with B-2 already on the south half.

4. The proposed zoning change will not adversely affect living conditions in the neighborhood.

Proposed zoning change to B-2 is less intense than B-3. The change would be beneficial to adjacent neighborhoods in many respects. The less intense use will be smaller in scale producing less traffic, less noise and other disturbances.

5. The proposed change will not create or excessively increase automobile traffic congestion or otherwise affect public safety.

The proposed B-2 zoning will result in less traffic than the existing B-3 zoning, by virtue of the less intensive uses allowed.

6. The proposed change will not adversely affect other property values.

The less intense use will help to diminish any possible adverse impacts on adjacent residential areas and less intense use will be more in keeping with the existing commercial development in this area.

7. The proposed change will not be a deterrent to the improvement or development of other property in accord with existing regulations.

Owners of adjacent properties will not be deterred or prohibited from making improvements to their parcels in accord with existing regulations. This request in fact will bring the subject property back into conformance with the development regulations under which the neighboring properties (and the south half of this parcel) were developed.

8. The proposed change will not constitute a grant of special privilege to an individual owner as contrasted with the welfare of the general public.

The proposed change will take the parcel from a more intense to a less intense use category and will restore the consistency of the zoning in the area. The welfare of the general public will be maintained.

9. There are substantial reasons why the property cannot be used in accord with existing zoning.

The existing B-3 zoning is a more intense commercial use district. Speaking generally, more intense uses require greater plot area since setback requirements are greater reducing the percentage of site area available for appropriate development use, as is the case here. Thirty feet would be required in the front, fifty feet in the rear, and twenty-five feet on each side. This, in combination with the centered access location required by the plat, and the previously developed area under B-2 regulations which cannot be easily modified, prevents efficient use of the property under the B-3 zoning classification.

Please do not hesitate to call if you require any additional information in order to move the re-zoning request forward.

Sincerely,

CCL CONSULTANTS, INC.

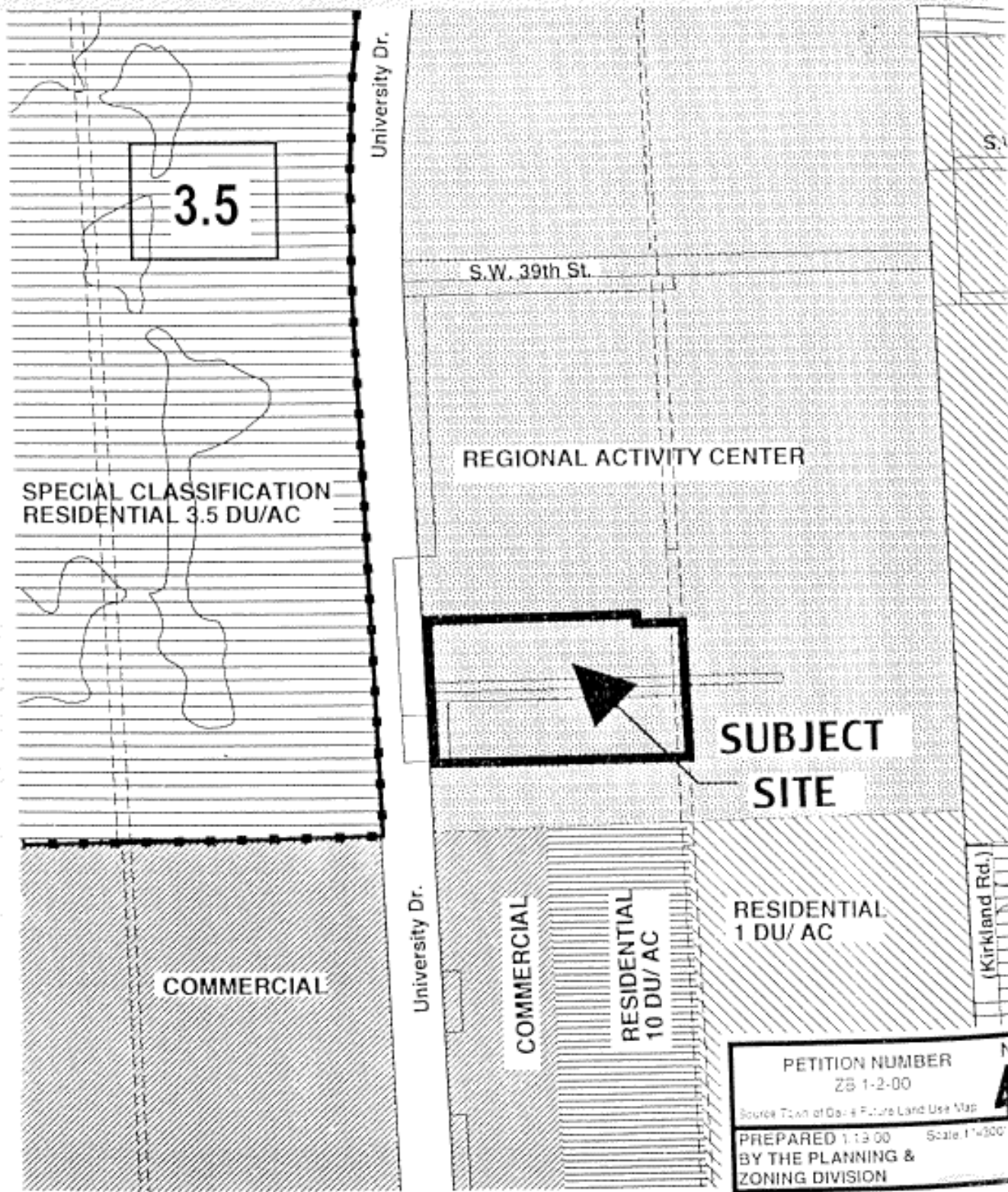


Jesse M. English, ASLA  
Project Manager

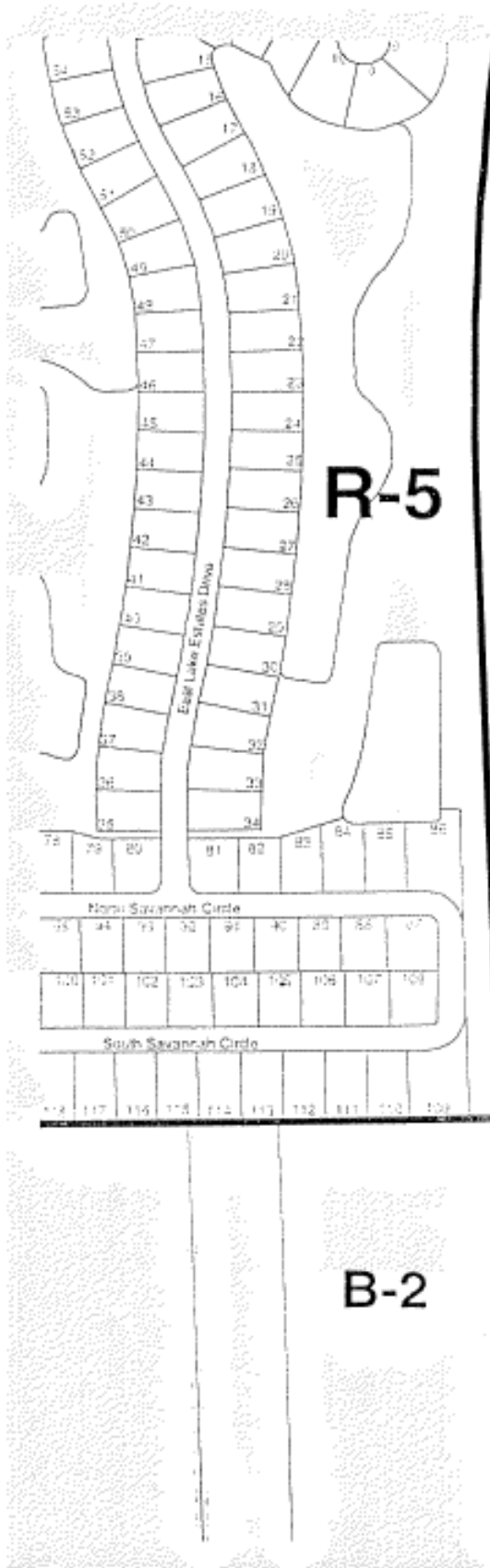
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Enclosures

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CCL CONSULTANTS, INC.







POST OFFICE

CHURCH / SCHOOL

SW 39TH ST

CHURCH / SCHOOL

COMMERCIAL

SINGLE FAMILY RESIDENTIAL  
(UNDER CONSTRUCTION)

**SUBJECT SITE**

SINGLE FAMILY  
RESIDENTIAL

VACANT

UNIVERSITY DR

COMMERCIAL

SINGLE FAMILY  
RESIDENTIAL



DATE FLOWN  
JANUARY 1998  
SCALE: NTS  
ZB 1-2-00